

**RESEARCH
TERMS AND CONDITIONS
July 1, 2008**

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I. GENERAL

1. Purpose.

These Research General Terms and Conditions implement the requirements of U. S. Office of Management and Budget Circulars, statutes, Executive orders and other requirements as they apply to grants made by Federal awarding agencies to educational and non-profit organizations. These terms and conditions:

- (a) Incorporate portions of the Circulars by reference, clarifying or supplementing selected provisions where appropriate and consistent with government-wide policy.
- (b) Apply to an award when included as part of the award or when incorporated in the award by reference.

2. Definitions.

These general terms and conditions incorporate 2 CFR 215.2 (previously Section 2 of OMB Circular A-110) with the following additions and clarifications:

- (a) As used throughout these General Terms and Conditions, the term "award" means this specific agreement.
- (b) If the recipient establishes a lower limit than \$5,000 for "equipment," as permitted by the definition in paragraph __.2(1), then any item with an acquisition cost less than \$5,000 that is charged directly to the award is:
 - (1) Subject to the requirement in paragraph (a)(3)(ii) of Article 34 to account for equipment in order to ensure that depreciation or use charges are not included in a proposal for indirect or Facilities and Administration costs.
 - (2) Not subject to any other property standards for equipment specified in Article 34.
- (c) "Federal awarding agency" means the Federal agency that made this award.
- (d) "Funding period" has the meaning given in 2 CFR 215.2(r), with the additional clarification that the term includes any extension of the expiration date of the award, such as a no-cost extension authorized by paragraph (c) (3)of Article 25.
- (e) "Program income," as defined in 2 CFR 215.2(x), does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them, unless the agency-specific requirements provide otherwise.
- (f) The term "property" includes supplies in addition to other types of property identified in the definition in 2 CFR 215.2(aa).
- (g) The term "recipient" means the organization that received this award.
- (h) In lieu of the definition given in 2 CFR 215.2(ff), the term "subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by

a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations

(i) The term “subrecipient,” is defined in 2 CFR 215.2(gg) includes the types of organizations shown for the Federal awarding agency in Appendix B of these General Terms and Conditions.

(hh) Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

3. Reserved

4. Deviations.

Any request by the recipient for waiver or deviation from any provision of either these general terms and conditions or the agency specific requirements shall be submitted to the awarding agency's designated representative identified in the agency specific requirements. Any request by the recipient for a waiver or deviation from any special condition attached to this award shall be submitted to the cognizant awarding agency official for this particular award (usually the Grants Officer or Contracting Officer who signed the award on behalf of the awarding agency). The Federal awarding agency shall review the request and notify the recipient whether the request to deviate has been approved within 30 calendar days from the date of receipt of the deviation request. If the deviation request is still under consideration at the end of 30 calendar days, the Federal awarding agency shall inform the recipient in writing of the date when the recipient may expect the decision.

5. Subawards.

2 CFR 215.5 (previously Section 5 of OMB Circular A-110) is incorporated into these General Terms and Conditions with the following clarification: The applicable provisions for subawards are described in Appendix B of these General Terms and Conditions.

II. PREAWARD REQUIREMENTS

10. Purpose. These General Terms and Conditions:

(a) Do not implement 2 CFR 215.11, 215. or 12, (previously Sections __.11, __.12, or __.14 of OMB Circular A-110 , “Pre-award policies,” and “Forms for applying for Federal assistance,”), because they address pre-award matters that are not appropriate for award terms and conditions.

(b) Do not implement 2 CFR 215.14, "Special Award Conditions," because implementation of that section is appropriately addressed in award-specific terms and conditions on a case-by-case basis, rather than in these general terms and conditions.

(c) Implement 2 CFR 215.13 and 215.15 (previously Sections __.13 and __.15 of OMB Circular A-110, “Debarment and suspension” and “Metric system of measurement,” respectively) in the national policy requirements found in Appendix C of these General Terms and Conditions.

(d) Implement 2 CFR 215.16 (previously Section __.16 of OMB Circular A-110, “Resource Conservation and Recovery Act (RCRA)”) in paragraph (d) of Article 40 because it relates to procurements under an award.

(e) Address matters related to 2 CFR 215.17 (previously Section __.17 of OMB Circular A-110, “Certifications and representations”) in Article 11, “National Policy Requirements.”

11. National policy requirements.

The national policy requirements are contained in Appendix C of these General Terms and Conditions.

Should an applicable national requirement be missing from the matrix, recipients and subrecipients are nevertheless responsible for compliance with applicable national policy requirements.

III. POSTAWARD REQUIREMENTS

Postaward requirements in these General Terms and Conditions implement the provisions in Subpart C of 2 CFR part 215 (OMB Circular A-110). The numbering of the articles in these General Terms and Conditions therefore parallels the numbering of the provisions of 2 CFR part 215 (e.g., Article 21 in this document implements 2 CFR 215.21, which previously was section __.21 of OMB Circular A-110).

III.A. FINANCIAL AND PROGRAM MANAGEMENT

20. Purpose of financial and program management. Articles 21 through 29 reflect Federal Awarding Agency implementation of 2 CFR 215.21 through 215.29 (previously Sections __.21 through __.29 of OMB Circular A-110). Articles 21 through 29 incorporate applicable portions of those sections into these General Terms and Conditions with appropriate clarifications and supplements.

21. Standards for financial management systems. The recipient’s financial management system shall meet the standards specified in paragraph (b) of 2 CFR 215.21.

22. Payment. 2 CFR 215.22 governs the Federal awarding agency’s and recipient’s responsibilities concerning payments, with the following clarifications:

(a) Payments will be made in advance, subject to the conditions described in 2 CFR 215.22(b), unless the Federal awarding agency provides otherwise in the agency-specific terms and conditions or the award document.

(b) With respect to 2 CFR 215.22(l), the complete address for remitting checks for interest earned on Federal advances is Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852.

(1) In keeping with Electronic Funds Transfer rules (31 CFR part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIR Deposit System. Electronic remittances should be in the format and should include any data that are specified by the HHS as being necessary to facilitate direct deposit in HHS' account at the Department of the Treasury.

(2) Recipients that do not have electronic remittance capability should send a check to the address in section (b) above.

23. Cost sharing or matching. This article implements 2 CFR 215.23. The allowability and valuation of third party in-kind and recipient contributions toward cost sharing or matching is in accordance with 2 CFR 215.23 with the following clarification: The recipient may include unrecovered indirect costs as part of cost sharing or matching. (See also OMB Memorandum M-01-06, *Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs*, January 5, 2001 available at: <http://www.whitehouse.gov/omb/memoranda/m01-06.html>)

24. Program income. This article implements 2 CFR 215.24. The use and disposition of program income is in accordance with 2 CFR 215.24, and, unless the agency specific requirements specify otherwise, the following clarifications and supplements to 2 CFR 215.24 apply:

(a) The additive method of 2 CFR 215.24(b)(1) will be used to dispose of program income, in accordance with 215.24(d).

(b) The recipient will have no obligation to the Federal Government for program income earned after the end of the project period, in accordance with 215.24(e).

(c) The recipient will have no obligation to the Federal Government for program income earned from license fees and royalties for copyrighted material, in accordance with 215.24(h).

25. Revision of budget and program plans. (a) The budget plan is the financial expression of the project or program as approved during the award process. The approved budget includes the Federal share of project costs and that portion of the non-Federal share of project costs, if any, that the recipient and the Federal awarding agency formally agree upon as cost sharing (see OMB Memorandum M-01-06, *Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs*, January 5, 2001 available at: <http://www.whitehouse.gov/omb/memoranda/m01-06.html>)

(b) The recipient must obtain the prior written approval of the Federal awarding agency before making any of the following project changes:

(1) A change in scope or objectives of the project as stated in the approved application or approved modifications thereto, such as a change in the phenomenon(a) under study, even if there is no associated budget revision.

(2) The absence or change of the Principal Investigator/Project Director (PI/PD). If the approved PI/PD severs his or her connection with the recipient or otherwise relinquishes active direction of

the project (either permanently or for a continuous period of more than 3 months or a 25 percent reduction in time devoted to the project), then the recipient must either:

- (i) Appoint a replacement PI/PD with the approval of the awarding agency;
- (ii) Seek and receive prior approval from the awarding agency for the reduction of time devoted to the project; or
- (iii) Relinquish the award (in which case the award will be terminated by mutual agreement, in accordance with Article 61).

(3) The total amount of Federal funds authorized is reflected on the award notice and notice of amendments signed by the authorized official of the Federal awarding agency (usually a Grants Officer or Contracting Officer). The Federal awarding agency is not liable for any obligations, expenditures, or commitments that require any amount in excess of the presently available Federal funds authorized. Any commitments, obligations, or expenditures in excess of that amount of Federal funds will be made at the recipient's risk. The receipt of any prospective funding is contingent upon the availability of funds, satisfactory performance, continued relevance to the program objectives, and will be at the sole discretion of the Federal awarding agency. The recipient will be responsible for any and all termination costs it may incur should prospective funding not become available. No legal liability will exist or result on the part of the Federal Government for payment of any portion of the remaining funds which have not been made available under the award. Notifications affecting the funding or notice of non-availability of additional funding for prospective years will be made only by the Grants Officer, Contracting Officer, or other authorized official of the Federal awarding agency.

(4) The transfer, by contract or other means, of a significant part of the research or substantive programmatic effort, unless described in the approved application or approved modifications to the award. The recipient must submit a justification, a description of the scientific/technical impact on the project, and a budget estimate to the cognizant Federal awarding agency official.

(c) All prior approvals required in OMB Circulars A-21 and A-122 , except those waived in subparagraphs (1) – (5) of this Article, and in Article 27, must be obtained. The recipient is authorized to do any one or more of the following:

(1) Incur pre-award costs 90 calendar days prior to award (or more than 90 calendar days with the prior approval of the Federal awarding agency). Pre-award expenditures prior to funding of an increment within a multiple-year project, including any optional years, are not subject to this limitation or approval requirement.

All costs are incurred at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(2)(i) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions applies:

(A) The agency-specific requirements of the award prohibit the extension

(B) The extension requires additional Federal funds.

(C) The extension involves any change in the approved objectives or scope of the project.

(ii) For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(3) Carry forward unobligated balances to subsequent funding periods. Any unobligated balance of funds which remains at the end of any funding period, except the final funding period of the project, shall be carried over to the next funding period, and may be used to defray costs of any funding period of the project in addition to the current year's funding. Since the carryover of unobligated balances is automatic, no separate or specific awarding agency prior approval shall be required to authorize use of the funds.

(4) Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

(5) Transfer funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(d) The recipient must provide revised budget information to the Federal awarding agency if there are any significant changes in the size or scope of the project or in the originally negotiated total estimated cost for the project period.

(1) To request approval for budget revisions, the recipient shall use the budget forms that were used in the application unless the Federal awarding agency states in its Agency-Specific Requirements that a letter of request suffices.

(2) Within 30 calendar days from the date of receipt of the request for budget revisions, the Federal awarding agency shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency shall inform the recipient in writing of the date when the recipient may expect the decision.

(e) The recipient shall notify the Federal awarding agency in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than \$5000 or five percent of the Federal award, whichever is greater. This notification is not required if an application for additional funding is submitted for a continuation award.

26. Non-Federal audits. The recipient will obtain audits and require subrecipients to obtain audits in accordance with 2 CFR 215.26.

27. Allowable costs. This includes costs of the award and costs of subrecipients under subawards to the award. Allowable costs of the recipient and subrecipients are in accordance with the cost principles described in 2 CFR 215.27, with the following clarifications:

(a) Educational institutions covered by OMB Circular A-21.

(1) Prior approvals. The Federal awarding agency hereby approves the inclusion of certain costs for which the agency's prior approval is required by the cost principles for educational institutions, in OMB Circular A-21. Agency approval is granted for the recipient to:

(i) Include charges for faculty consulting on sponsored agreements that exceed a faculty member's base salary, but only in unusual cases where: (a) consultation is across departmental lines or involves a separate or remote operation; and (b) the consulting work is in addition to the faculty member's regular departmental load [reference paragraph J.10.d(1) of OMB Circular A-21].

(ii) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research, as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions [reference paragraphs J.18.b(1) and (2) of OMB Circular A-21].

(iii) Include as direct charges capital expenditures for improvements to equipment that materially increases the equipment's value or useful life, but only if the equipment is primarily used in the actual conduct of the research [reference paragraph J.18.b.(3) of OMB Circular A-21].

(iv) Include preagreement costs, to the extent described in paragraph 25.(c)(1) of Article 25 of these General Terms and Conditions [reference paragraph J.36. of OMB Circular A-21].

(v) Include rearrangement and alteration costs under \$25,000 [reference paragraph J.40. of OMB Circular A-21], subject to the following conditions:

(A) The alteration or renovation must be essential to the project supported;

(B) The facility to be altered or renovated must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;

(C) The space involved must actually be occupied by the project or program;

(D) The space must be suitable for human occupancy before alteration or renovation work is started, except where the purpose of the alteration or renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage);

(E) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and renovation proposed.

(2) The following clarification applies to the standard in paragraph c.4.d. of OMB Circular A-21, which relates to allocation of costs for interrelated projects supported by multiple Federal awards: The interrelationship between or among projects does not have to be formally stipulated, but must be demonstrable on the basis of the following criteria. Either: (a) the theoretical approaches are interrelated; (b) studies of the same phenomena are conducted by the same or different techniques; or (c) studies of different phenomena are conducted by the same technique.

(b) Nonprofit organizations covered by OMB Circular A-122. The Federal awarding agency hereby approves the inclusion of certain costs for which the agency's prior approval is required by the cost principles for nonprofit organizations, in OMB Circular A-122. Agency approval is granted for the recipient to:

(1) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research, as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions [reference paragraphs 15.b.(1) and (2) of Attachment B to OMB Circular A-122].

(2) Include as direct charges capital expenditures for improvements to equipment that materially increases the equipment's value or useful life, but only if the equipment is primarily used in the actual conduct of the research [reference paragraph 15.b.(3) of Attachment B to OMB Circular A-122].

(3) Include participant support costs such as stipends, subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects [reference paragraph 33 of Attachment B to OMB Circular A-122.]

(4) Include pre-award costs incurred up to 90 days prior to the effective date of the award, as provided in Article 25.(c)(1) of these general terms and conditions [reference paragraph 36 of Attachment B to OMB Circular A-122.]

(5) Include costs of rearrangements and alterations under \$25,000 [reference paragraph 39. of Attachment B to OMB Circular A-122], subject to the following conditions:

(i) The alteration or renovation must be essential to the project supported;

(ii) The facility to be altered or renovated must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;

(iii) The space involved must actually be occupied by the project or program;

(iv) The space must be suitable for human occupancy before alteration or renovation work is started, except where the purpose of the alteration or renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage);

(v) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and renovation proposed.

(6) Include costs for foreign travel outside of Canada and the United States and its territories and possessions [reference paragraph 51.e. of Attachment B to OMB Circular A-122.]

(c) Hospitals covered by 45 CFR 74, Appendix E._ The Federal awarding agencies hereby approve the inclusion of certain costs for which the agency's prior approval is required by the cost principles for hospitals, in 45 CFR 74, Appendix E. Agency approval is granted for the recipient to:

(1) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions (reference paragraphs IX.B.4 & 12 of 45 CFR 74, Appendix E).

(2) Include charges for non-hospital professional activities that exceed a staff member's base salary, but only in unusual cases where (a) the non-hospital professional activities are across departmental lines or involve a separate or remote operation; and (b) the non-hospital professional work is in addition to the staff members regular departmental load (reference paragraph IX.B.7.f. of 45 CFR 74, Appendix E).

(3) Include preagreement costs to the extent described in paragraph 25.3.1 of Article of these General Terms and Conditions (reference paragraph IX.B.27 of 45 CFR 74, Appendix E).

(4) Rearrangement, alteration and reconversion costs under \$25,000 (reference paragraphs IX.B.32 & 33 of 45 CFR 74, Appendix E) subject to the following conditions:

(i) The rearrangement or alteration must be essential to the project supported;

(ii) The facility to be altered or rearranged must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;

(iii) The space involved must actually be occupied by the project or program;

(iv) The space must be suitable for human occupancy before alteration or rearrangement work is started, except where the purpose of the alteration or rearrangement is to make the space suitable for some purpose other than human occupancy (e.g., storage);

(v) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and rearrangement proposed.

28. Period of availability of funds. The recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period specified, any pre-award costs authorized in accordance with paragraph (c) of Article 25 of these General Terms and Conditions, and costs allocable to the production of the final report.

29. Reserved.

III.B. PROPERTY STANDARDS

30. Purpose of property standards. Articles 31 through 37 of these General Terms and Conditions implement 2 CFR 215.31 through 215.37 (previously Sections __.31 through __.37 of OMB Circular A-110). Those sections of 2 CFR part 215 set forth uniform standards governing use, management and disposition of property furnished by the Federal Government or property for which the acquisition cost was charged to a project supported by a Federal award. Articles 31 through 37 incorporate applicable provisions of 2 CFR 215.31 through 215.37 and provide clarification and supplementation where appropriate.

31. Insurance coverage. Requirements for insuring real property or equipment under the award are as stated in 2 CFR 215.31.

32. Real property. The recipient may not acquire real property under the award without the prior approval of the Federal awarding agency, in accordance with paragraph J.18.b.(1) of OMB

Circular A-21 or in accordance with paragraph 15.b.(1) of OMB Circular A-122. Should approval be granted to do so, the Federal awarding agency will prescribe requirements for use and disposition of the property, in accordance with 2 CFR 215.32.

33. Federally-owned and exempt property. (a) Federally-owned property includes: equipment or supplies that are furnished by the Federal Government; or equipment acquired by the recipient under a Federal award that specifies that title to the property vests upon acquisition in the Federal Government. The recipient:

(1) Must submit annual and final reports for any Federally-owned property under the award, in accordance with 2 CFR 215.33(a)(1).

(2) May use Federally-owned equipment on other activities not sponsored by the Federal Government only if authorized by the Federal awarding agency. User charges must be treated as program income, in accordance with 2 CFR 215.34(d).

(3) Must administer Federally-owned equipment in accordance with 2 CFR 215.34(f).

(b) Exempt property. All equipment and supplies acquired by the recipient under the award are “exempt property,” as that term is defined in 2 CFR part 215. Articles 34 and 35 of these General Terms and Conditions address the requirements for equipment and supplies, respectively.

34. Equipment. (a) Unless the agency-specific requirements specify otherwise, title to all equipment purchased or fabricated with Federal awarding agency or recipient cost sharing funds, as direct costs of the project or program, shall vest in the recipient upon acquisition, subject only to the following conditions:

(1) The Federal awarding agency may require that title be transferred to the Federal Government or a third party if the project or program for which the equipment was purchased is transferred to another recipient. In any such case, the Federal awarding agency will notify the recipient of the intent to transfer title within 120 days following the expiration or termination of the project and paragraph (g)(2) of 2 CFR 215.34 then applies..

(2) As long as the Federal Government continues to support the project or program for which the equipment was purchased, the recipient:

(i) Must use the equipment in that project or program, unless it no longer is needed for that project or program. The recipient may not encumber the equipment without the approval of the Federal awarding agency.

(ii) Must use the equipment in accordance with 2 CFR 215.34 (b) and (d). In accordance with 215.34(b), the recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

(iii) May, when acquiring replacement equipment, use the equipment that is being replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment, as authorized by 2 CFR 215.34(e).

(3) The recipient must:

- (i) Account for the equipment in accordance with 2 CFR 215.34(f); and
- (ii) Continue to account for the equipment after the cessation of Federal support for the project or program for which the equipment was purchased, in a manner that ensures that:
 - (A) equipment purchased under the award is not later included as a contribution toward cost sharing under another Federal award; and
 - (B) depreciation or use charges for the equipment are not later included in any proposal for indirect or Facilities and Administrative costs.
- (b) The recipient shall specify in any cost-type subaward whether title to equipment purchased or fabricated under the subaward vests in the recipient or subrecipient. If title vests in the subrecipient, it must be subject to the conditions specified in paragraph 34 (a) of this article (modified appropriately if the subrecipient is not an institution of higher education or nonprofit organization and its property management standards are specified in a document other than 2 CFR part 215). The recipient shall also require each subrecipient to specify, in any lower-tier, cost-type subaward that the subrecipient awards, whether title to equipment purchased or fabricated under that lower-tier subaward vests in the subrecipient making the subaward or in the lower-tier subrecipient.
- (c) Expenditures for acquisition or improvement of special purpose and general purpose equipment, as defined in paragraphs J.18.a.(3) and (4) of OMB Circular A-21 and as defined in paragraphs 15.a (3-4) of OMB Circular A-122, are allowable as direct costs of the project in accordance with Article 27, Section (a)(1)(iii) of these General Terms and Conditions.

35. Supplies. Unless the agency-specific requirements provide otherwise, title to supplies shall vest in the recipient upon acquisition unconditionally, without further obligation to the Federal Government.

36. Intangible property.

2 CFR 215.36 specifies the Government's and recipient's rights and responsibilities concerning copyrights, patents and inventions, and data that are generated or acquired under the award, with the following clarifications:

- (a) The Federal awarding agency does not waive the Federal Government's rights concerning data first produced under the award, as described in 2 CFR 215.36(c)(1) and (2).
- (b) The award shall be subject to the Patents Rights (Small Business Firms and Nonprofit Organizations) clause at 37 CFR 401.14 and the following:
 - (1) In each instance where the term "contract" or "contractor" is used in the clause, those terms shall be read as "award" and "recipient," respectively.
 - (2) In each instance where the term "Federal Agency," "agency," or "funding Federal agency" is used in the clause, the term shall be read to mean the awarding agency for the award.

(3) Under paragraph (g) of the clause, the title shall read “Contracts and Subawards Under the Award” and, in that paragraph, “subcontract” and “subcontractor” shall be read as “contract” or “subaward.”

(4) Under subparagraph (g)(2) of the clause, if a contract or subaward is to be made to any organization other than a non-profit organization or small business firm, as defined in paragraph (a) of the clause, the recipient shall contact the cognizant awarding agency official to ascertain the appropriate patent clause.

(c) See the agency-specific requirements of the award for the point of contact for communications on matters relating to the clause.

37. Property trust relationship.

2 CFR 215.37 applies to real property, equipment and intangible property acquired or improved with Federal funds under the award. This Article imposes no additional requirements for notices of record over and above any described in Articles 32 through 36 of these General Terms and Conditions and the associated agency-specific requirements.

III.C. Procurement Standards

40. Purpose of procurement standards. This Article implements 2 CFR 215.16 and 215.41 through 215.48 (previously section __.16 and sections __.41 through __.48 of OMB Circular A-110), which set forth standards for recipients’ procurement of supplies, equipment, real property and services with Federal funds. Paragraph (d) of this article implements 2 CFR 215.16. 2 CFR 215.41 through 215.48 are incorporated into these General Terms and Conditions with the clarifications provided in the other paragraphs of this article:

(a) In 2 CFR 215.44(e)(2) through (5), 215.46, and 215.48(a) and (b), the term “small purchase threshold” is replaced by “simplified acquisition threshold,” the term that now is defined at 41 U.S.C. 403(11). The simplified acquisition threshold currently is \$100,000.

(b) In 2 CFR 215.48(e), the words “all contracts, including small purchases” is replaced by the words “all contracts, including those for amounts less than the simplified acquisition threshold.”

(c) The reference in 2 CFR 215.48(e) to “Appendix A to this part” is replaced by a reference to Appendix A of these general terms and conditions.

(d) The recipient shall give preference in its procurements using Federal funds to the purchase of recycled products pursuant to the EPA guidelines in 40 CFR parts 247-254 if it is a State or local institution of higher education, hospital, or non-profit organization to which the Resource Conservation and Recovery Act (RCRA) applies, in accordance with 2 CFR 215.16.

(e) The recipient’s procurement system, in its essential elements, shall remain as approved by the Office of Naval Research (ONR) and the recipient shall notify ONR of any proposed major change(s) to the approved system, if the ONR has reviewed and approved the recipient’s procurement system for any of the following reasons:

(1) The ONR is the cognizant Federal agency for the recipient or has reviewed the recipient’s procurement system at the request of another Federal awarding agency.

(2) The recipient also receives Federal procurement contracts; the administrative contracting officer has determined that there is a need for a contractor's purchasing system review, in accordance with 48 CFR 44.302 in the Federal Acquisition Regulation; and the ONR is the office responsible for conducting the review.

III.D. Reports and Records

50. Purpose of reports and records. Articles 51 through 53 implement 2 CFR 215.51 through 215.53 (previously sections __.51 through __.53 of OMB Circular A-110) by incorporating appropriate provisions of those sections, with clarifications. Those sections of 2 CFR part 215 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

51. Monitoring and reporting program performance. The recipient's responsibilities for programmatic monitoring and reporting are as stated in 2 CFR 215.51(a) through (g), with the following additions and clarifications:

(a) Publications. The recipient is expected to publish or otherwise make publicly available the results of the work conducted under the award. An acknowledgment of awarding agency support must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

(1) The acknowledgment will be: "This material is based upon work supported by the [name of awarding agency(ies)] under Award No. [recipient should enter the awarding agency(ies) award number(s)]."

(2) For all materials, except scientific articles or papers published in scientific journals, the disclaimer will be: "Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the [name(s) of awarding agency(ies)]."

(b) Technical reports.

(1) The final technical report, in accordance with 2 CFR 215.51(b) through (d), is due 90 calendar days after the expiration or termination of the award, unless the agency-specific or award-specific terms and conditions state that a final report is not required.

(2) The recipient is encouraged to submit technical reports in computer or electronic formats. When paper copies are submitted, the recipient shall provide an original and two copies, as provided in 2 CFR 215.51(e).

(c) Site visits. With respect to 2 CFR 215.51(g), the Federal awarding agency's authorized representatives have the right to make site visits at all reasonable times to review project accomplishments and provide such technical assistance as may be required. All site visits and evaluations shall be performed in a manner that does not unduly interfere with or delay the work.

52. Financial reporting. This article specifies financial reporting requirements (it thereby implements, and does not incorporate, 2 CFR 215.52). If payments are made in advance, in accordance with Article 22.(a) of these general terms and conditions, *the Federal Cash Transactions Report* (SF-272) or its electronic equivalent shall be submitted within 15 days following the end of each funding quarter. If payments are made by the reimbursement method, see agency specific terms and conditions for the applicable financial reporting requirements.

53. Retention and access requirements for records. The rights and responsibilities of the recipient and Federal awarding agency are as stated in 2 CFR 215.53, with the following clarifications:

(a) With the exception of types of records described in 2 CFR 215.53(b)(1) through (4), the recipient must retain financial and programmatic records, supporting documents, statistical records, and all other records of a recipient that are required by the terms of a grant, or may reasonably be considered pertinent to a grant, for a period of 3 years from the date the Financial Status Report is submitted.

(b) In accordance with 2 CFR 215.53(c), copies of original records, either in paper or in computer or electronic format, may be substituted for the original records.

54. Reporting potentially classifiable information (a) **This award is intended for unclassified, publicly releasable research.** The recipient will not be granted access to classified information. The awarding agency does not expect that the results of the research project will involve classified information.

(b) If, however, in conducting the activities supported under this award, the principal investigator (PI) is concerned that any of the research results involve potentially classifiable information that may warrant Government restrictions on the dissemination of the results, the PI should promptly notify the awarding agency's program official, or the person identified in the Agency Specific Requirements.

III.E. Termination and Enforcement

60. Purpose of termination and enforcement. Articles 61 and 62 implement 2 CFR 215.61 and 215.62 (previously sections __.61 and __.62 of OMB Circular A-110), which set forth uniform suspension, termination and enforcement procedures.

61. Termination. This article implements appropriate portions of 2 CFR 215.61, as follows:

(a) 2 CFR 215.6(a) states the conditions under which the recipient and/or the Federal awarding agency may terminate the award before the date of completion specified in the award document and any amendments thereto.

(b) The recipient and Federal awarding agency are responsible for the closeout of the terminated award, as described in Article 71 of these terms and conditions.

(c) After the termination, the recipient and the Federal awarding agency continue to have the rights and responsibilities described in Article 72 of these terms and conditions.

62. Enforcement. This article incorporates 2 CFR 215.62, which specifies the remedies available to the Federal awarding agency when the recipient materially fails to comply with the terms and conditions of the award. 2 CFR 215.62 also states the rights and responsibilities of the recipient and the Federal awarding agency related to any enforcement action.

IV. AFTER THE AWARD REQUIREMENTS

70. Purpose.

Articles 71 through 73 incorporate 2 CFR 215.71 through 215.73 (previously sections __.71 through __.73 of OMB Circular A-110) with appropriate clarifications. Those sections of the Circular contain closeout procedures and other procedures for subsequent disallowances and adjustments.

71. Closeout procedures.

The rights and responsibilities of the recipient and the Federal awarding agency are as stated in 2 CFR 215.71, with the following clarifications:

(a) The Federal awarding agency shall make downward adjustments to the Federal share of costs, as described in 2 CFR 215.71(e), if the amount expended by the recipient on project costs is less than the amount stated in the award and any amendments thereto.

72. Subsequent adjustments and continuing responsibilities. The continuing rights of the Federal awarding agency and responsibilities of the recipient after closeout of this award are as stated in 2 CFR 215.72.

Appendix A – Contract Provisions

Contract Provisions

All contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, shall contain the provisions described in paragraphs 1 through 8 in Appendix A to 2 CFR part 215 (OMB Circular A-110), as applicable, with the following clarifications:

A.1. Equal Employment Opportunity. The reference to “41 CFR part 60” in paragraph 1 of Appendix A to 2 CFR part 215 is replaced by “41 CFR chapter 60.” The text of Executive Order 11375 may be found at 3 CFR, 1966-1970 Comp., p. 684.

A.2. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). In paragraph 4 of Appendix A to 2 CFR part 215, the words “all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers” are replaced by “all contracts awarded by recipients in excess of \$100,000 for construction or other purposes that involve the employment of mechanics or laborers.”